

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Licenses and
Licensing Rights of

OSCAR PADILLA INSURANCE
SERVICES, Inc.,

OSCAR PADILLA,

and

PETER JOHN PADILLA

Respondents.

File No. SD 6673—AP

STIPULATION AND WAIVER

TO THE DEPARTMENT OF INSURANCE OF THE STATE OF CALIFORNIA:

OSCAR PADILLA MEXICAN INSURANCE SERVICES, Inc., OSCAR PADILLA and PETER JOHN PADILLA, Respondents in the above-entitled matter, have conferred with counsel, Roger McNitt, of Chapin Shea McNitt & Carter. Respondents have fully reviewed the charges and allegations of violations of the California Insurance Code ("CIC"), as set forth in the First Amended Accusation and Order to Show Cause, which was filed in this matter, a copy of which is attached hereto as Exhibit A, along with Respondents' Notice of Defense, and incorporated fully by reference herein. Respondents hereby voluntarily enter into the following Stipulation and Waiver ("Stipulation") with the Insurance Commissioner ("Commissioner"), as a means of achieving a full and final resolution of the administrative action in lieu of an evidentiary hearing and decision.

IT IS HEREBY STIPULATED by and between Respondents and Insurance Commissioner and their respective counsel as follows:

1. JURISDICTION: The Insurance Commissioner has jurisdiction over Respondents pursuant to CIC §§ 790.03, 790.035, 1668, 1668.5, 1738 and 1739. Respondents acknowledge receipt of the Accusation and Order to Show Cause, Notice of Defense, and Statement to Respondents in the above-entitled matter. Respondents acknowledge jurisdiction by the Commissioner when it filed a Notice of Defense in response to the Accusation and Order to Show Cause.

2. The Commissioner and Respondents believe that it is in the public interest to resolve the matters raised herein without the need for a formal hearing or further administrative action.

3. FINDINGS: Without admitting the truth or accuracy of the allegations, Respondents admit that the Commissioner had cause to issue the Accusation and Order to Show Cause.

4. The fact that Respondents do not specifically admit the allegations contained in the Accusation and Order to Show Cause is not to be interpreted directly or by implication to mean that the Commissioner has insufficient evidence or grounds to support such allegations, nor that Respondents lacked evidence or grounds to refute said allegations.

5. ORDER: The Commissioner shall, by his written order to be made and filed herein, order that pursuant to the express language of California Insurance Code § 1742 that Respondents Oscar Padilla Mexican Insurance Services, Inc., Oscar Padilla and Peter John Padilla be issued restricted licenses for a term of two years effective from the date the order is signed. During the term of this restricted license, Respondents shall comply with the following terms and conditions:

- a. Comply with all statutes and regulations pertaining to the transaction the business of insurance within the State of California;
- b. Commencing on the date of the Commissioner's order and each September 1st thereafter for the term of this Stipulation and Order, annually provide the Insurance Commissioner the identity and financial particulars of any nonadmitted insurer on whose behalf Respondents are transacting Mexican Tourist Insurance.

6. As the holders of restricted licenses, Respondents shall be fully authorized to conduct the business of insurance permitted under such licenses so long as they comply with the conditions set out in paragraph five of this Stipulation and Waiver.

7. After the expiration of two years of full and faithful compliance with these conditions, Respondents may apply to the Insurance Commissioner for unrestricted licenses.

8. MONETARY PENALTY: Respondent Peter John Padilla shall pay a fine in the amount of TEN THOUSAND DOLLARS (\$10,000.00). Respondent Oscar Padilla shall pay a fine in the amount of ONE THOUSAND DOLLARS (\$1,000)

9. COSTS: Respondents shall pay the amount of ONE THOUSAND DOLLARS (\$1,000.00) to reimburse the Insurance Commissioner for costs associated with investigating Respondents' conduct in this matter.

10. MONETARY PAYMENT: Respondents shall pay in full the amounts enumerated in paragraphs eight, nine and ten within 20 days of being invoiced by the Department of Insurance, and agree that if said amounts are not so paid, the

Commissioner may revoke Respondents' license and licensing rights without further notice or hearing.

11. WAIVER OF HEARING RIGHTS: The parties waive their rights to a hearing to contest the allegations of the Accusation and Order to Show Cause, to present evidence on their behalf and cross-examine witnesses testifying on the other party's behalf. The parties further waive their rights to further discovery in this matter.

12. WAIVER OF APPEAL/MODIFICATION RIGHTS: Respondent waives all rights of review arising out of this action or this Stipulation and the Orders implementing it, including but not limited to an application to modify or rescind the order, a petition for rehearing, writ of administrative mandamus, or any other judicial or administrative review or any other right of ability they may have to seek to have this Stipulation modified or set aside on any grounds whatsoever.

13. WAIVER OF CLAIMS: The parties waive all known or unknown legal actions or claims against each other or their employees or agents, that they have acquired or come to acquire arising out of this matter, with the following exception:

a. Any outstanding Civil Penalties.

14. PUBLIC RECORD: The parties acknowledge that this Stipulation is a public record as required by Government Code § 11517(e). It is accessible to the public pursuant to the Public Records Act, Government Code § 6250 et seq. This Stipulation and the Order adopting it will be posted on the Department's Internet web site pursuant to CIC § 12968.

15. EFFECTIVE DATE: This Stipulation is effective on the date on which the Order adopting it is executed. In the event that the Order adopting this Stipulation is not

executed, it shall have no force or effect as to either party.

16. NO ORAL MODIFICATION: This Stipulation constitutes the entire agreement between the parties with respect to the Accusation in this case. Moreover, the terms of this Stipulation cannot be amended except in writing, signed by all the parties thereto.

17. INSURANCE COMMISSIONER APPROVAL: Respondent acknowledges that CIC § 12921 requires the Insurance Commissioner to approve the final settlement of this matter. Both the settlement terms and conditions contained herein and the acceptance of those terms and conditions are contingent upon the Commissioner's approval.

IT IS SO STIPULATED:

Dated: 5/17/02 /s/
PETER JOHN PADILLA on behalf of
OSCAR PADILLA MEXICAN INSURANCE SERVICES

Dated: 5/17/02 /s/
OSCAR PADILLA

Dated: 5/17/02 /s/
PETER JOHN PADILLA

Dated: 5/17/02 /s/
ROGER McNITT
Attorney for Respondents

Dated: 5/23/02 /s/
JAMES STANTON BAIR III
Staff Counsel
California Department of Insurance